

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on May 6, 2004. Per Rule 133.307(d)(1) dates of service 03/13/03 through 04/09/03 were not filed timely and cannot be reviewed. The requestor submitted a new table of disputed service on August 10, 2004.

The IRO reviewed therapeutic exercises, manual therapy techniques, office visits, massage therapy, FCE, muscle testing and physician review that were denied based upon "V".

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

The therapeutic exercises (97110) rendered on 8/22/03, 9/22/03, 9/23/03 and 9/24/03 for a maximum of 4 units, therapeutic exercises rendered on 10/16/03, and office visits rendered on 08/22/03, 09/22/03, and 10/16/03 **were** found to be medically necessary. The remainder of the services **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for therapeutic exercises, manual therapy techniques, office visits, massage therapy, FCE, muscle testing and physician review.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

On June 28, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

- CPT Code 97122 for dates of service 05/07/03 and 06/06/03. Neither party submitted EOBs; therefore, this code will be reviewed according to the 1996 Medical Fee Guideline. Per the 1996 MFG/MGR (I)(A)(9)(b) reimbursement in the amount of \$70.00 (\$35.00 x 2) is recommended.
- CPT Code 97250 for dates of service for dates of service 05/07/03 and 06/06/03. Neither party submitted EOBs; therefore, this code will be reviewed according to the 1996 Medical Fee Guideline. Per the 1996 MFG/MGR (I)(A)(9)(c) reimbursement in the amount of \$86.00 (\$43.00 x 2) is recommended.
- CPT Code 97265 for dates of service for dates of service 05/07/03 and 06/06/03. Neither party submitted EOBs; therefore, this code will be reviewed according to the 1996 Medical Fee Guideline. Per the 1996 MFG/MGR (I)(A)(9)(c) reimbursement in the amount of \$86.00 (\$43.00 x 2) is recommended.
- CPT Code 99213 for dates of service for dates of service 05/07/03 and 06/06/03. Neither party submitted EOBs; therefore, this code will be reviewed according to the 1996 Medical Fee Guideline. Per the 1996 MFG/E&MGR (IV)(C)(2) reimbursement in the amount of \$96.00 (\$48.00 x 2) is recommended.
- CPT Codes 95851, 97122, 97250, and 97265 for dates of service 05/21/03 and 05/28/03 denied as "G". Per the 1996 Medical Fee Guideline, the only global services are surgical codes; therefore, reimbursement in the amount of \$157.00 (\$36.00 + \$35.00 + \$43.00 + \$43.00) is recommended.
- CPT Code 97545-WH (18 hrs) for dates of service 06/17/03 through 07/07/03. Neither party submitted EOBs for these dates of service. The requestor submitted preauthorization approval

from the respondents utilization review department that recommended the work hardening program for 15 sessions or 120 hours. Reimbursement in the amount of \$921.60 (\$51.20 (not CARF accredited) x 18) is recommended.

- CPT Code 97546-WH (54 hrs) for dates of service 06/17/03 through 07/07/03. Neither party submitted EOBs for these dates of service. The requestor submitted preauthorization approval from the respondents utilization review department that recommended the work hardening program for 15 sessions or 120 hours. Reimbursement in the amount of \$2,764.80 (\$51.20 (not CARF accredited) x 54) is recommended.
- CPT Code 97032 for date of service 08/05/03 denied as "F". Per Rule 134.202(b) and the Medicare Fee Schedule reimbursement times 125% equals \$19.60, the respondent reimbursed the requestor \$20.85; therefore, additional reimbursement is not recommended.
- CPT Code 97124 (20 units total) for dates of service 08/20/03 through 12/09/03 denied as "G" with the exception of date of service 09/09/03 which was denied as "E". According to the TWCC database, a TWCC-21 has not been filed; therefore services performed on 09/09/03 will be reviewed per TWCC Rules and the Medicare Fee Schedule. Per Rules 134.304(c) and 134.202(a)(4) the respondent did not specify which code manual muscle testing was global to; therefore, reimbursement in the amount of \$568.80 (\$22.75 x 125% = \$28.44 x 20) is recommended.
- CPT Code 95831 (3 units total) for dates of service 08/21/03 and 09/09/03 denied as "G" for date of service 08/21/03 and "E" for date of service 09/09/03. According to the TWCC database, a TWCC-21 has not been filed; therefore services performed on 09/09/03 will be reviewed per TWCC Rules and the Medicare Fee Schedule. Per Rules 134.304(c) and 134.202(a)(4) the respondent did not specify which code manual muscle testing was global to; therefore, reimbursement in the amount of \$118.17 (\$31.51 x 125% = \$39.39 x 3) is recommended.
- CPT Code 95851 (3 units total) for dates of service 08/21/03 and 09/09/03 denied as "G" for date of service 08/21/03 and "E" for date of service 09/09/03. According to the TWCC database, a TWCC-21 has not been filed; therefore services performed on 09/09/03 will be reviewed per TWCC Rules and the Medicare Fee Schedule. Per Rules 134.304(c) and 134.202(a)(4) the respondent did not specify which code Range of Motion measurements were global to; therefore, reimbursement in the amount of \$107.34 (\$28.62 x 125% = \$35.75 x 3) is recommended.
- CPT Code 99213 for dates of service 09/02/03 denied as "G – Unbundling"; 09/09/03 denied as "E"; and 12/09/03, no EOB submitted by either party. Per Rules 134.304(c) and 134.202(a)(4) the respondent did not specify which code for date of service 09/02/03 Range of Motion measurements were inclusive to. According to the TWCC database, a TWCC-21 has not been filed; therefore services performed on 09/09/03 will be reviewed per TWCC Rules and the Medicare Fee Schedule. Per 134.202(c) reimbursement in the amount of \$198.57 (\$52.95 x 125% = \$66.19 x 3) is recommended.
- CPT Code 96004 for date of service 09/09/03 denied as "E". According to the TWCC database, a TWCC-21 has not been filed; therefore services will be reviewed per TWCC Rules and the Medicare Fee Schedule. Per Rule 134.202(c) reimbursement in the amount of \$143.95 (\$115.16 x 125%) is recommended.
- CPT Code 97110 (4 units total) for date of service 09/09/03 denied as "E" and date of service 10/08/03 denied as "F". According to the TWCC database, a TWCC-21 has not been filed; therefore services for will be reviewed per TWCC Rules and the Medicare Fee Schedule. Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section

413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Additional reimbursement not recommended.

- CPT Code 97140 (2 units total) for dates of service 09/09/03 denied as "E"; and 12/09/03, no EOB received from either party and will be reviewed per TWCC Rules and the Medicare Fee Schedule. According to the TWCC database, a TWCC-21 has not been filed; therefore services performed on 09/09/03 will be reviewed per TWCC Rules and the Medicare Fee Schedule. Per 134.202(c) reimbursement in the amount of \$68.10 ($\$27.24 \times 125\% = \34.05×2) is recommended.

This Decision is hereby issued this 22nd day of October, 2004

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf
Enclosure: IRO decision

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees **(\$5,386.33 in general fee reimbursements plus those services deemed medically necessary by the IRO)** in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 05/07/03 through 12/09/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 22nd day of October, 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/mf
Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION -- AMENDED DECISION

Date: September 10, 2004

RE:

MDR Tracking #: M5-04-2900-01
IRO Certificate #: 5242

_____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to _____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

_____ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Letter from _____
- Table of services
- Operation notes
- Referral from treating orthopedic surgeon
- Diagnostic test results

Submitted by Respondent:

- Letter from the carrier's attorney
- Daily notes
- TWCC-73's
- Range of motion tests
- Muscle tests

Clinical History

According to the supplied documentation, it appears that the claimant fell into a hole while carrying 80-100 pounds of cable on his shoulder. Date of injury is reported as _____. The claimant was first seen at _____ on 3/13/03. The claimant initially underwent passive modalities and later underwent a work hardening program. On 8/13/03 the claimant underwent surgery to his right knee by _____. On 8/19/03 _____ prescribed physical therapy at 2-3 times per week for 4 weeks. The claimant returned to _____ to undergo therapy. Several muscle tests and range of motion tests were performed to document the claimant's deficiencies. Documentation continues until 10/16/03. The documentation ends here.

Requested Service(s)

Therapeutic exercises (97110), manual therapy techniques (97140), office visits (99213), massage therapy (97124), FCE (97750-FC), muscle testing (95831), physician review (96004).

Decision

I disagree with the insurance carrier and find that therapeutic exercises (97110) rendered on 8/22/03, 9/22/03, 9/23/03, 9/24/03 (maximum of 4 units), and 10/16/03 were medically necessary. I also disagree with the insurance carrier and find that the office visits (99213) dated 8/22/03, 9/22/03 and 10/16/03 were medically necessary. I agree with the insurance carrier that the remainder of the services in dispute were not medically necessary.

Rationale/Basis for Decision

According to the supplied objective documentation it appears the claimant sustained an injury to his left knee on _____. After conservative therapy failed, the claimant underwent a surgical operation on 8/13/03. The treating orthopedic surgeon, _____, ordered physical therapy at 2-3 times per week for 4 weeks on 8/19/03. It appears that on 8/22/03 chiropractic/physical therapy was begun. The active therapeutic exercises are seen as reasonable and necessary to help restore range of motion and help improve the claimant's strength. Documentation supplied supports that various activities were being performed to help achieve this goal. Other therapies including manual therapy techniques and massage therapy, which are considered passive in nature, are not seen as reasonable or necessary to treat a knee complaint status post surgery. Office visits that were performed on each date of service are not considered reasonable or necessary to treat the compensable injury. Monthly office visits are seen as reasonable and necessary to document the claimant's progress as well as inform the carrier of the claimant's current physical state. The FCE and muscle testing performed are also seen as reasonable and necessary to help determine the claimant's work status and to assess what the claimant is actually capable of performing.